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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/694,578	10/27/2003	Takehiro Nishimura	19036/39694	3752

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EXAMINER

LE, MARK T

ART UNIT PAPER NUMBER

3617

DATE MAILED: 01/14/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	10/694,578	NISHIMURA, TAKEHIRO	
	Examiner	Art Unit	
	Mark T. Le	3617	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 10 December 2004.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 3-8 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 3-8 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|--|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input checked="" type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

1. This communication is responsive to the amendments filed on December 10, 2004. Applicant's amendments and remarks have been carefully considered, but are deemed moot in view of the new grounds of rejection set forth below.

2. In claims 1-6, line 1, and in claim 7 line 2, the word "type" should be deleted because it is not clear as to what structures are covered under the instant claimed type.

In claim 3, last line, "coils spring" should be changed to -- coil spring --.

3. Claims 3, 5 and 7-8 are rejected under 35 U.S.C. 103(a) as being unpatentable over Iwamura (US 5,189,962) in view of Borlinghaus (US 4,120,489).

Iwamura discloses a radius arm type truck similar to that recited in the instant claims, including base frame 12, axle box 3, radius arm 3', and coil spring 6. It is noted that the coil spring of Iwamura does not have tapered end portions as recited in the instant claims.

Applicant should consider the coil spring of Borlinghaus that includes constant diameter wire portion in the middle portion of the spring, and tapered end portions in the end portions of the spring, as shown in Figures 1 and 2 of Borlinghaus. Regarding the instant claimed constant-diameter portion of the coil spring, note that the middle portion of Borlinghaus' spring that has a constant wire diameter portion, as shown in Figure 1 of Borlinghaus, is readable as a constant-diameter portion of the coil spring.

In view of Borlinghaus, it would have been obvious to one skilled in the art to substitute a coil spring having a construction similar to that taught by Borlinghaus for the

coil spring of Iwamura so as to enhance operational flexibilities and performance characteristics of the associated structure.

4. Claim 6 is rejected under 35 U.S.C. 103(a) as being unpatentable over the prior art as applied to claim 3 above, and further in view of the prior art description on page 3 of the instant specification.

Regarding the instant claimed truck including a current collector for receiving power from a third rail, as recited in instant claim 6, it is noted that such feature is known in the art as described on page 3 of the instant specification. Accordingly, it would have been obvious to one skilled in the art to provide a known type of current collectors on the truck of Iwamura so as to allow the truck to be used on the type of tracks with third rails.

5. Claim 4 is rejected under 35 U.S.C. 103(a) as being unpatentable over the prior art as applied to claim 3 above, and further in view of Pointer (US 2,361,496).

Regarding the instant claimed spring seats with elastic members, consider spring seats with elastic members 30 of Pointer. In view of Pointer, it would have been obvious to one skilled in the art to provide elastic members, similar to that taught by Pointer, on spring seats of Iwamura so as to achieve expected advantages thereof.

6. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of

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the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Mark T. Le whose telephone number is 703-308-3663. The examiner can normally be reached on Mon-Fri (8:00-5:00).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Samuel Morano can be reached on 703-308-0230. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Mark T. Le
Primary Examiner
Art Unit 3617

mle
1/11/05